

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

TELE-CONS, INC. and) 2004 OCT 13 P 4:29
MICHAEL MOISIN)
Plaintiffs,) U.S. DISTRICT COURT
v.) DISTRICT OF MASS.
HARMONY LIGHTING, INC.,)
LIGHTS OF AMERICA, INC.,)
FEIT ELECTRIC COMPANY, INC.)
TECHNICAL CONSUMER PRODUCTS, INC.,)
S K AMERICA, INC. d/b/a MAXLITE,)
WESTINGHOUSE LIGHTING CORPORATION,)
GREENLITE LIGHTING CORP.,)
HELIX LIGHTING CORP.,)
AMERICAN TOP LIGHTING, INC.,)
PHILIPS LIGHTING COMPANY, and)
PHILIPS ELECTRONICS NORTH AMERICA)
CORPORATION.)
Defendants.)
)

Civ. A. No. 03-11250 RCL

MOTION AND MEMORANDUM TO EXTEND THE MARKMAN SCHEDULE

Plaintiffs Tele-Cons, Inc. and Michael Moisin hereby respectfully move the Court to Extend the existing Markman Schedule as set forth below for the reasons explained herein:

1. Defendants Harmony Lighting, Inc., Technical Consumer Products, Inc., Maxlite, Greenlite Lighting Corp., and Philips Lighting Co. and Philips Electronics North America are all unopposed to Plaintiffs' Motion. The remaining defendants have not responded to Plaintiffs' query regarding this Motion.
2. At the Settlement Conference held on May 5, 2004, the Court set a Pretrial Schedule, the relevant part of which is set forth below.

3. Plaintiffs' are currently pursuing settlement negotiations with all of the defendants, and are close to settlement with a number of the defendants.

4. Plaintiffs' counsel are currently at trial before the Honorable Judge Young in the District Court for the District of Massachusetts in the case of Nortel Networks, Inc. v. Foundry Networks, Inc., cv. 01-10442 WGY.

5. Due to the attendant time and other demands of the Nortel v. Foundry case, plaintiffs' counsel are unable to attend to both the settlement negotiations and claim construction issues as currently scheduled in this case.

6. In light of this conflict, ongoing settlement negotiations, and the parties' need to complete the claim construction process and conduct discovery, Plaintiffs, with the consent of the above listed defendants, move the Court to enter the modified schedule set forth below.

7. Plaintiffs, as well as the above listed defendants, are mindful of the need to avoid undue delay and have agreed upon the proposed modified dates carefully in a good faith effort to avoid any further changes in the schedule.

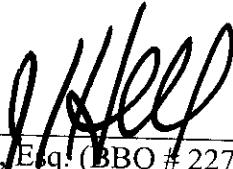
WHEREFORE, Plaintiffs respectfully move this Court for an Order modifying the current Pretrial Scheduling Order as follows:

<u>EVENT</u>	<u>EXISTING DATE</u>	<u>PROPOSED NEW DATE</u>
Plaintiffs to file claim construction briefs	October 15, 2004	November 29, 2004
Defendants to file claim construction briefs	November 1, 2004	December 13, 2004
Markman Hearing	December 15, 2004	January 12, 2004

Respectfully submitted,

**TELE-CONS, INC. and
MICHAEL MOISIN**

Dated: October 13, 2004

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing to be served by first class mail, postage prepaid, on October 13, 2004, on the following:

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LIT 1483294v1